

IT-03-67-PT
D18166 - D18164
15 MAY 2007

18166
NC

UNITED
NATIONS



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of the
former Yugoslavia since 1991

Case No. IT-03-67-PT
Date: 15 May 2007
Original: ENGLISH

IN TRIAL CHAMBER III

Before: Judge Patrick Robinson, Presiding Judge
Judge Jean Claude Antonetti, Pre-trial Judge
Judge Iain Bonomy

Registrar: Mr. Hans Holthuis

Order: 15 May 2007

PROSECUTOR

v.

VOJISLAV ŠEŠELJ

**ORDER REGARDING MR. ŠEŠELJ'S MOTION FOR
CONTEMPT PROCEEDINGS**

Office of the Prosecutor:

Ms. Christine Dahl
Mr. Ulrich Müssemer
Mr. Klaus Hoffman

The Accused:

Mr. Vojislav Šešelj

TRIAL CHAMBER III ("Trial Chamber") of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 ("Tribunal"),

BEING SEISED of the "Motion by Professor Vojislav Šešelj for Trial Chamber III to Instigate Proceedings for Contempt of the Tribunal Against Carla Del Ponte, Hildegard Uertz-Retzlaff and Daniel Saxon" filed on 23 March 2007 ("Motion"),

NOTING that in the Motion, Mr. Šešelj submits that there is reason to believe that the Prosecutor and the two members of the Office of the Prosecutor committed contempt by knowingly and wilfully interfering with the administration of justice by ordering and encouraging Prosecution investigators to threaten, intimidate, inflict injuries upon, and offer bribes to, potential defence witnesses so they would appear as witnesses for the Prosecution and give false evidence against Mr. Šešelj,¹

NOTING that in the Prosecution Response to the Motion, the Prosecution rejects the allegations made by Mr. Šešelj, submits that there are insufficient grounds on which to proceed with contempt proceedings and argues that the Trial Chamber should reject the Motion,²

CONSIDERING that the allegations against the Prosecutor and the members of the Office of the Prosecutor concerning the bribery of witnesses, and threatening, intimidating and/or other improper conduct towards witnesses, raise the issue of the methods by which some of the evidence that is to be adduced by the Prosecution at trial was collected by Prosecution investigators and, therefore, the admissibility of any evidence that may have been obtained by those methods,

CONSIDERING that a challenge to the admissibility of any evidence should be dealt with during the trial and, particularly, through the examination and cross-examination of the witnesses identified in the Motion,

CONSIDERING FURTHER that if the Prosecution does not call the witnesses identified in the Motion, the Trial Chamber may call those witnesses as Chamber witnesses,

¹ Motion, pp. 1, 4, 5, 17-20, 22-24. The Motion also contains allegations of treatment vis-à-vis specific witnesses, see pp. 5 – 17.

² Prosecution Response to Vojislav Šešelj's Motion to Instigate Contempt Proceedings with Confidential Annexes A-J and Confidential and Ex Parte Annex K, 12 April 2007, paras 2-4.

CONSIDERING, therefore, that the determination of the Motion will be postponed until after Mr. Šešelj's trial is completed and that, consequently, the request for contempt proceedings will be determined at that time,

RECALLING that Mr. Šešelj has been in pre-trial detention for over four years,

CONSIDERING that initiating the procedure provided for under Rule 77 of the Tribunal's Rules of Procedure and Evidence ("Rules") may result in further delay to the start of Mr. Šešelj's trial and that, therefore, postponing determination of the Motion until after the trial has been completed will ensure that the trial can start as soon as possible in accordance with Mr. Šešelj's right to a fair and expeditious trial,

PURSUANT to Rule 54 of the Tribunal's Rules of Procedure and Evidence,

HEREBY ORDERS the postponement of a determination of the request for the initiation and execution of contempt proceedings as set out in the Motion until after the completion of Mr. Šešelj's trial.

Done in English and French, the English text being authoritative.



Judge Patrick Robinson
Presiding

Dated this fifteenth day of May 2007
At The Hague
The Netherlands

[Seal of the Tribunal]